



P21154.A09

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Steven HILL et al.

Group Art Unit 1723

Appln. No. : 09/857,204

Examiner: D. L. Sorkin

Filed : September 18, 2001

For : FLUID MIXING DEVICE

**INTERVIEW SUMMARIES**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

In Summary of the telephone interviews conducted with the Examiner on November 20, 2003, and with the Examiner and the Primary Examiner on January 8, 2004, as well as the brief telephone conversations conducted with the Examiner and the Supervisory Patent Examiner to arrange the above-noted telephone Interviews, Applicants submit the following remarks.

In the telephone Interview of November 20, 2003, Applicants' representatives, Joshua Povsner and William Pieprz, asserted that numerous of the features recited in the independent claims were not explicitly or inherently disclosed in the references applied in the outstanding Final Official Action. Applicants' representatives further asserted that there was no basis to shift (to the Applicants) the vague and heavy burden of proving the absence of the claimed features in the references applied by the Examiner, particularly when there was no evidence that such claimed

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features are present in the references.

The telephone interview dated January 8, 2004 involved similar discussions, with the additional presence of the Primary Examiner. As a result of the telephone interview dated January 8, 2004, an Interview Summary was issued by the Examiner in which it was explicitly asserted that several of the claimed features are inherent.

Applicants additionally note that the remarks in the above-noted Examiner's Interview Summary do not necessarily reflect the discussions or agreements reached in the above-noted telephone interviews. For example, at page 3, lines 14 and 15, the Examiner asserts '[i]t was also agreed that all first and second inlets and outlets, including those of the prior art, are "configured and positioned" in some way'. In this regard, while Applicants agree that each of the references may disclose some combination of inlets and outlets, Applicants have clearly remarked on the record that the Examiner's interpretations of "inlets" and "outlets", e.g., in the second embodiment of RYSCHKEWITSCH, are incorrect.

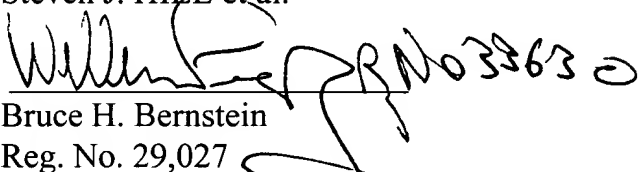
Furthermore, the statement in the Examiner's Interview Summary at page 3, lines 4-6, i.e., that '[t]he examiners and applicant's representatives all agreed that... the act of "establishing a vortex system" was not an element of the claimed invention', is incorrect. Rather, Applicants' representatives have argued repeatedly that the Examiner was improperly ignoring the above-noted feature in claim 1 (and similar feature in additional independent claims). In this regard, insofar as structure that provides a vortex system is explicitly recited in each of the independent claims, Applicants respectfully submit that such claimed features cannot properly be ignored in a proper rejection.

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Furthermore, Applicants' representatives submit that various of the terms used in the above-noted Interview Summaries precisely support the reasons that the features recited in the claims are not inherent in the applied references. In this regard, rather than asserting that the claimed features are "necessarily" present in the references, the Examiner's Interview Summary asserts that the apparatuses of the references, e.g., "could be used" (lines 20-21) or "would be capable of being used" (lines 26-28), to obtain the features recited in the claims. In any case, in the above-noted telephone interviews, Applicants' representatives asserted that there was no basis in fact or reasoning to support an assertion that the disclosed apparatuses even "could be used" or "would be capable of being used" to obtain the claimed characteristics, let alone that the claimed characteristics are "necessarily" present in the disclosed apparatuses. Accordingly, Applicants submit that the Interview Summaries provided by the Examiner are not fully accurate representations of the above-noted telephone interviews.

If there are any questions about this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,  
Steven J. HILL et al.

  
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Reg. No. 29,027

April 19, 2004  
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Attorney Docket No. P21154

In re application of : Steven HILL et al.  
Serial No. : 09/857,204  
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For : FLUID MIXING DEVICE

Group Art Unit : 1723

Examiner : D.L. SORKIN

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Transmitted herewith is an Appeal Brief under 37 C.F.R. §1.192 (in triplicate) in the above-captioned application.

- ☐ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.  
☐ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.  
☐ A Request for Extension of Time.  
☒ An Interview Summaries.  
☐ No Additional Fee.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 37	* 37	0	x 9=	\$	x 18=	\$ 0.00
Indep. Claims: 3	**3	0	x 42=	\$	x 84=	\$ 0.00
Multiple Dependent Claims Presented			140=	\$	+280=	\$ 0.00
Appeal Brief Filing Fee				\$		\$330.00
Total:				\$	Total:	\$330.00

\*If less than 20, write 20

\*\*If less than 3, write 3

☐ Please charge my Deposit Account No. 19-0089 in the amount of \$\_\_\_\_\_.

☒ A Check in the amount of \$330.00 to cover the filing fee is included.

☒ The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

☒ Any additional filing fees required under 37 C.F.R. 1.16.

☒ Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 CFR 1.136)(a)(3).

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